

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA

Plaintiff,

-vs-

Case No. 3:09-CR-121
District Judge Thomas M. Rose

SHAWN M. LAUDERDALE

Defendant.

ORDER


This matter comes before the Court for consideration upon Defendant's Pro Se Motion to Modify Pursuant to 18 U.S.C. 3582(c)(2) (doc. 54) filed on April 17, 2012. No memorandum in opposition has been filed.

Defendant requests that his sentence be reduced pursuant to the implementation of the recent guideline amendment to the Fair Sentencing Act. Upon review, the Court finds Defendant's motion to be not well taken and the Court **DENIES** the same.

Although, the 2008 U.S. Sentencing Guidelines Manual was in effect when Defendant's offense concluded, at sentencing, the Court applied the 2010 U.S. Sentencing Guidelines Manual to calculate his offense level and guideline range. Had the previous guideline been used, the Defendant would have produced a higher total offense level. The higher total offense level combined with Defendant's criminal history category would have resulted in a guideline imprisonment range of 140 to 175 months. However, the Defendant received the benefit of the amended guideline, resulting in a guideline imprisonment range of 120 to 150 months. The Court imposed the statutory mandatory minimum sentence of 120 months.

Accordingly, this Court finds that since the Defendant received the benefit of the guideline amendment at the time of his sentencing, he is not eligible for a further reduction under 18 U.S.C. 3582(c)(2) and his previously imposed sentence of 120 months is proper, reasonable, and appropriate.

DONE and **ORDERED** in Dayton, Ohio, this 4th day of May, 2012.


THOMAS M. ROSE JUDGE
UNITED STATES DISTRICT COURT